

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

MICHAEL T. LEWIS,

Plaintiff,

vs.

PHILIP ANSCHUTZ and
XANTERRA PARKS AND
RESORTS, INC.,

Defendants.

CV 21-115-BLG-SPW

ORDER ADOPTING
FINDINGS AND
RECOMMENDATIONS

Before the Court are United States Magistrate Judge Timothy Cavan's Findings and Recommendations, filed November 22, 2023. (Doc. 27). Defendants moved to compel arbitration and dismiss the case and, alternatively, to stay proceedings during arbitration. (Doc. 19). Judge Cavan recommended the Court grant Defendants' Motion as to the motion to compel arbitration and stay the proceedings pending arbitration and deny as to the motion to dismiss.

The parties were required to file written objections within 14 days of the filing of Judge Cavan's Findings and Recommendations. 28 U.S.C. § 636(b)(1). Neither party objected to the Findings and Recommendations, and so waived their right to de novo review of the record. *See* 28 U.S.C. § 636(b)(1)(C). This Court reviews for clear error those findings and recommendations to which no party objects. *See*

McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F.2d 1309, 1313 (9th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” *Government of Guam v. Guerrero*, 11 F.4th 1052, 1059 (9th Cir. 2021) (quoting *C.I.R. v. Duberstein*, 363 U.S. 278, 291 (1960)). After reviewing the Findings and Recommendations, this Court does not find that Judge Cavan committed clear error.


Accordingly, IT IS HEREBY ORDERED:

1. The proposed Findings and Recommendations entered by Judge Cavan are ADOPTED IN FULL. Defendants Philips Anshutz and Xanterra Parks and Resorts, Inc.’s Motion to Compel Arbitration and Dismiss Case (Doc. 19) is GRANTED as to the motion to compel arbitration and motion to stay this action pending arbitration and DENIED as to the motion to dismiss.

2. Defendant Michael T. Lewis’s “Motion Not to Compel Arbitration” (Doc. 25) is DENIED.

3. IT IS FURTHER ORDERED that this case is STAYED pending arbitration.

DATED this 18th day of December, 2023.


SUSAN P. WATTERS
United States District Judge